

AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court _____ of Nevada on the following Patents or Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
2:10-cv-00567	4/20/2010	of Nevada
PLAINTIFF		DEFENDANT
Skyzone, LLC		Flip N Out, LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,624,122		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK			
1		(See Attached Complaint)			
2					
3					
4					
5					

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK /s/ Lance S. Wilson	(BY) DEPUTY CLERK /s/ Sutawnee Duckro	DATE 4/20/2010
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 SKYZONE, LLC, a Nevada limited liability company,) Case No.
13 Plaintiff,)
14 vs.) COMPLAINT FOR PATENT
15 FLIP N OUT, LLC, a Nevada limited liability company, and DOES 1-20, inclusive,) INFRINGEMENT
16 Defendants.)
17)
18)
19)
20)
21)
22)

23 Plaintiff SkyZone, LLC ("SkyZone" or "Plaintiff") hereby alleges and
24 complains against defendant Flip N Out, LLC, a Nevada limited liability company,
25 and DOES 1-20, inclusive, as follows:
26
27
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1

2 NATURE OF ACTION

3 1. This is an action for infringement of United States Patent No.
4 5,624,122 (the "122 Patent"). A true and correct copy of the 122 Patent is
5 attached hereto as Exhibit A.

6 2. Plaintiff, SkyZone, which is the 122 Patent's exclusive owner and
7 holder brings this action against Flip N Out, LLC ("Flip") for its willful and
8 deliberate infringement of, or alternatively, its imminent infringement of, the 122
9 Patent in connection with Flip's operation and use of a "fun center" in Las Vegas,
10 Nevada.

11

12 THE PARTIES

13 3. Plaintiff SkyZone is a Nevada limited liability company with its
14 principal place of business in Las Vegas, Nevada. Plaintiff owns and operates a
15 recreational facility in Las Vegas that is covered by the 122 Patent.

16 4. On information and belief, defendant Flip is a Nevada limited liability
17 company with its principal place of business in Las Vegas, Nevada, which markets
18 and promotes its operations throughout the United States, including in this District.

19 5. The true names and capacities of defendants named herein as Does 1
20 through 20, inclusive, whether individual, corporate, associate, or otherwise, are
21 unknown to Plaintiff, and therefore Plaintiff sues such defendants by fictitious
22 names. Plaintiff will amend this Complaint to show such true names and
23 capacities when they have been ascertained. Plaintiff is informed and believes and
24 thereon alleges that each of these fictitiously named defendants is responsible in
25 some manner for the occurrences and wrongdoing herein alleged, and that
26 Plaintiff's injuries and monetary damages as herein alleged were proximately
27 caused by the aforementioned defendants.

28 6. Plaintiff is informed and believes and thereon alleges that Flip and
Does 1 through 20, inclusive (collectively, "Defendants"), and each of them, were

1 the agents, servants and employees, each of the other, and in contriving,
2 promoting, doing and suffering the wrongful acts hereinafter alleged, each was
3 acting in such capacity and within the relative scope of his or her authority.

4

5 **JURISDICTION AND VENUE**

6 7. This is an action for patent infringement under Title 35 of the United
7 States Code, and, therefore, this Court has subject matter jurisdiction pursuant to
8 28 U.S.C. §§ 1331 and 1338(a).

9 8. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b)
10 because Plaintiff resides in this District and has regular and established places of
11 business in this District. Defendant has promoted its facilities in this District and
12 has had contacts with Plaintiff in this District. Further, a substantial part of the
13 events giving rise to the claim at issue occurred in this District.

14 9. This Court has personal jurisdiction over Flip because Flip is located
15 in this District and by virtue of Flip's business activities within the State of
16 California and within this District, sufficient minimum contacts exists between Flip
17 and this forum.

18 **FACTUAL ALLEGATIONS**

19 10. On or about July 17, 1996, Karin-Maria K. Winkelhorn (the
20 "Inventor") filed United States Patent application No. 08/683,669 with the United
21 States Patent and Trademark Office ("USPTO"), disclosing an invention that
22 involves "a plurality of rectangular trampoline-like channels held together
23 edgewise by supporting cables with all of the adjacent edges and cables being
24 covered by padding" (the "122 Application").

25 11. On April 29, 1997, the 122 Patent was issued, entitled "Sport game
26 and field."

27 12. In or around 2002, the 122 Patent was transferred to SkyZone without
28 limitation.

1 13. On or about January 2004, SkyZone began developing recreational
2 centers based on the 122 Patent. The first center was created in Las Vegas, and
3 opened on or about June 2004. Subsequent facilities have been opened in
4 Sacramento, California and St. Louis, Missouri, and additional facilities are
5 currently being developed across the United States.

6 14. Sometime in 2006, Mr. Boyd Tracy Eliason, who, on information and
7 belief, is the creator, owner, and operator of Flip, came to visit the Las Vegas
8 SkyZone facility, and met with SkyZone personnel to inquire about the SkyZone
9 concept.

10 15. Sometime during the summer of 2008, and based on his knowledge of
11 SkyZone, Mr. Eliason decided to create a facility similar to the SkyZone facility.

12 16. Sometime thereafter, Mr. Eliason developed a website to promote the
13 Flip concept. On the Flip website, Flip states that his competitor Skymania (which
14 is a wholly owned subsidiary of SkyZone) had 100,000 visitors in its first year of
15 business. A true and correct copy of the webpage in which Flip references
16 Skymania is attached hereto as Exhibit B.

17 17. In or around early 2010, Plaintiff became aware of Flip's existence,
18 and discovered that Flip had been actively developing a recreational facility that
19 directly infringes the 122 Patent under 35 U.S.C. §271. The infringing acts
20 include, but are not limited to, the manufacture, use, and offering for use the
21 above-identified recreational facility that is covered by the 122 Patent.

22 18. Based on this information, on or about April 2, 2010, Plaintiff sent a
23 cease and desist letter to Mr. Eliason and to Flip via email and U.S. mail (the
24 "C&D Letter") advising them of their direct infringement of the 122 Patent. A true
25 and correct copy of the Letter is attached hereto as Exhibit C.

26 19. On or about April 15, 2010, in a telephone conversation between
27 SkyZone's counsel and Mr. Eliason, Mr. Eliason acknowledged, on behalf of Flip,
28 that he had received and reviewed the C&D Letter.

20. As of the filing date of this Complaint, Defendants have failed to respond to the C&D Letter.

21. Based upon the C&D Letter, Mr. Eliason and Flip have now been advised that Flip's actions directly infringe upon the 122 Patent.

22. As a result of Flip's infringement, Plaintiff has sustained damages and will continue to sustain damages as a result of lost profits and diverted customers in the Las Vegas market in an amount greater than the jurisdictional minimum of this Court. As a result of Flip's infringement, Plaintiff has also sustained damages, and will continue to sustain damages to its professional reputation for, among other things, the safety of its recreational facility.

23. Under 35 U.S.C. §284, Plaintiff is entitled to recover from Flip the damages sustained by Plaintiff as a result of Flip's infringement of the 122 Patent. Furthermore, Flip's infringement of Plaintiff's rights under the 122 Patent will continue to damage Plaintiff's businesses, causing irreparable harm to Plaintiff, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. §283.

24. Upon information and belief, and based on Flip's acknowledgement of receipt of the C&D Letter, Flip's continuing infringement of the 122 Patent is willful and deliberate, and entitles Plaintiff to additional damages under 35 U.S.C. §284 as well as attorney fees and costs under 35 U.S.C. §285.

COUNT II

Infringement of United States Patent No. 5,624,122

(Against All Defendants)

25. Plaintiff hereby incorporates paragraphs 1 through 24 inclusive by reference as though fully set forth herein.

26. This claim is made under the provisions of the patent laws of the United States and, in particular, 35 U.S.C. §271, et seq.

1 27. On April 29, 1997, the United States Patent and Trademark Office
2 duly and legally issued United States Patent No. 5,624,122 entitled "Sport game
3 and field."

4 28. SkyZone is the owner, without limitation, of the 122 Patent.

5 29. Defendants have infringed and, on information and belief, continue to
6 infringe directly, indirectly, contributorily, and/or by inducement, the 122 Patent
7 by making, using, promoting, offering for sale or use, and/or selling products and
8 services in this District and elsewhere in the United States, including, without
9 limitation, the Flip N Out fun center in Las Vegas, Nevada.

10 30. Defendants knowingly, willfully, and deliberately infringed and, on
11 information and belief, continue to infringe the 122 Patent in conscious disregard
12 of Plaintiff's rights, making this case exceptional within the meaning of 35 U.S.C.
13 § 285 and justifying treble damages pursuant to 35 U.S.C. § 284.

14 31. Defendants' actions have caused and will continue to cause irreparable
15 harm and monetary damage to Plaintiff unless and until Defendants are enjoined
16 and restrained by this Court from infringing on the 122 Patent.

17

PRAYER FOR RELIEF

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19 WHEREFORE, Plaintiff respectfully requests that this Court enter judgment for
20 Plaintiff and against Defendants as follows:

21 (a) For a judgment for Plaintiff on this Complaint that Defendants have
22 infringed and continue to infringe the 122 Patent;

23 (b) For preliminarily and permanent injunctions under 35 U.S.C. §283
24 enjoining Defendants, their agents, officers, directors, employees, successors,
25 subsidiaries, assigns, and all persons acting in privity or in concert therewith or in
26 participation with them from any further infringement of the 122 Patent;

27 (c) For a judgment finding that Defendants' infringement was willful and
28 deliberate, entitling Plaintiff to increased damages under 35 U.S.C. §284;

- (d) For damages resulting from Defendants' infringement in accordance with 35 U.S.C. §284;
- (e) For treble damages in accordance with the provisions of 35 U.S.C. §284;
- (f) For judgment finding this to be an exceptional case, and for an award of Plaintiff's reasonable attorneys' fees under 35 U.S.C. §285;
- (g) For an award of Plaintiff's interest and costs; and
- (h) For any such other and further relief to which the Court finds Plaintiff is entitled under law or equity.

JURY TRIAL DEMAND

Plaintiffs hereby demand a jury trial on all issues so triable.

DATED: April 19, 2010

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DATED: April 19, 2010

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